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Provisional agenda, annotations thereto and scheduling of meetings of the thirty-third session

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II. Annotations to the Provisional Agenda

Item 1. Opening of the session

The thirty-third session will be held at the United Nations Headquarters, New York, from 12 June to 7 July 2000. The session will be opened on Monday, 12 June 2000, at 10:30 a.m. The Commission is composed of the following member States: Algeria, Argentina (alternates with Uruguay annually starting in 1998), Australia, Austria, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, China, Colombia, Egypt, Fiji, Finland, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Nigeria, Paraguay, Romania, Russian Federation, Singapore, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, and Uruguay (alternates with Argentina annually starting in 1999). In addition, States not members of the Commission, as well as invited international organizations, may attend as observers and participate in the deliberations.

Item 2. Election of officers

Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairman, three Vice-Chairmen and a Rapporteur.

Item 3. Adoption of the agenda

It is suggested that all items be considered in plenary.

Item 4. Draft Convention on Assignment of Receivables

The Commission, at its twenty-eighth session in 1995, decided to entrust the Working Group on International Contract Practices with the task of preparing a uniform law on assignment in receivables financing (A/50/17, paras. 374-381). The Working Group commenced its work at its twenty-fourth session, in November 1995, by considering a report of the Secretary-General (A/CN.9/420). At its twenty-fifth to thirty-first sessions, the Working Group considered revised draft articles prepared by the Secretariat (A/CN.9/WG.II/WP.87, A/CN.9/WG.II/WP.89, A/CN.9/WG.II/WP.93, A/CN.9/WG.II/WP.96, A/CN.9/WG.II/WP.98, A/CN.9/WG.II/WP.102 and

A/CN.9/WG.II/WP.104) and, at its twenty-ninth to thirty-first sessions, it adopted articles of a draft Convention on Assignment of Receivables (A/CN.9/455, para. 17; A/CN.9/456, para. 18; and A/CN.9/466, para. 19).

The Commission will have before it the report of the Working Group on the work of its thirty-first session, which was held at Vienna from 11 to 22 October 1999 (A/CN.9/466). The draft Convention appears in annex I to this report. The Commission will also have before it an analytical commentary on the draft Convention prepared by the Secretariat (A/CN.9/470) and a compilation of comments by Governments and international organizations (A/CN.9/472 and Addenda, as necessary).

After having reviewed and revised the draft Convention, the Commission may wish to adopt the draft Convention and to decide whether to recommend its final adoption by the General Assembly or by a diplomatic conference to be specially convened by the General Assembly for that purpose.

Item 5. Draft Legislative Guide on Privately Financed Infrastructure Projects

At its twenty-ninth session, in 1996, after having considered a note by the Secretariat on "build-operate-transfer"(BOT) projects (A/CN.9/424), the Commission decided to prepare a legislative guide to assist States in preparing or modernizing legislation relevant to those projects (A/51/17, paras. 225-230). The Commission has considered various draft chapters of the Legislative Guide since its thirtieth session, in 1977 (A/52/17, paras. 231-247; A/53/17, paras. 12-206; A/54/17, paras. 12-307).

At the current session, the Commission will have before it a complete revised draft of the Legislative Guide consisting of "Introduction and background information on privately financed infrastructure projects", and drafts of chapters I, "General legislative and institutional framework"; II, "Project risks and government support"; III, "Selection of the concessionaire"; IV, "Construction and operation of infrastructure"; V, "Duration, extension and termination of the project agreement"; VI, "Settlement of disputes" and VII, "Other relevant areas of law" (A/CN.9/471/Add.1-8, respectively). In order to facilitate the Commission's deliberations, all recommendations contained in the individual chapters have been consolidated in one document (A/CN.9/471/Add.9).

Item 6. Electronic Commerce

At its thirtieth session (1997), the Commission endorsed the conclusions reached by the Working Group on Electronic Commerce at its thirty-first session with respect to the desirability and feasibility of preparing uniform rules on issues of digital signatures and certification authorities, and possibly on related matters (A/CN.9/437, paras. 156-157). The Commission entrusted the Working Group with the preparation of uniform rules on the legal issues of digital signatures and certification authorities (A/52/17, paras. 249-251). The Working Group began the preparation of uniform rules for electronic signatures at its thirty-second session (January 1998) on the basis of a note by the Secretariat (A/CN.9/WG.IV/WP.73). At its thirty-first session, the Commission had before it the report of the Working Group (A/CN.9/446). The Commission noted that the Working Group, throughout its thirty-first and thirty-second sessions, had experienced manifest difficulties in reaching a common understanding of the new legal issues that arose from the increased use of digital and other electronic signatures. However, it was generally felt by the Commission that the progress realized so far indicated that the draft Uniform Rules on Electronic Signatures were progressively being shaped into a workable structure. The Commission reaffirmed the decision made at its thirty-first session as to the feasibility of preparing such Uniform Rules. In the context of that discussion, the Commission noted with satisfaction that the Working Group had become generally recognized as a particularly important international forum for the exchange of views regarding the legal issues of electronic commerce and for the preparation of solutions to those issues (A/53/17, paras. 207-211).

The Working Group continued its work at its thirty-third (July 1998) and thirty-fourth (February 1999) sessions on the basis of notes prepared by the Secretariat (A/CN.9/WG.IV/WP.76, 79 and 80). At its thirty-second session, the Commission had before it the reports of the Working Group on the work of those two sessions (A/CN.9/454 and 457).

While the Commission generally agreed that significant progress had been made at those two sessions, it was also felt that the Working Group had been faced with difficulties in the building of a consensus as to the legislative policy on which the Uniform Rules should be based. The Commission reaffirmed its earlier decision as to the feasibility of preparing such uniform rules and expressed its confidence that more progress could be accomplished

by the Working Group at its forthcoming sessions. While it did not set a specific time-frame within which the Working Group might be expected to fulfil its mandate, the Commission urged the Working Group to proceed expeditiously with the completion of the draft Uniform Rules (A/54/17, paras. 308-314).

The Working Group continued its work at its thirty-fifth (September 1999) and thirty-sixth (February 2000) sessions on the basis of notes prepared by the Secretariat (A/CN.9/WG.IV/WP.82 and 84). The Commission will have before it the reports of the Working Group on the work of those two sessions (A/CN.9/465 and 467). At its thirty-sixth session, the Working Group adopted the text of draft articles 1 and 3 to 12 of the Uniform Rules. Subject to approval by the Commission, the Working Group recommended that draft articles 2 and 13 of the Uniform Rules, together with a draft of a Guide to Enactment to be prepared by the Secretariat, should be reviewed by the Working Group at a future session (A/CN.9/467, paras. 19-20).

Item 7. Insolvency

At its thirty-second session (1999), the Commission had before it a proposal by Australia (A/CN.9/462/Add.1) on possible future work in the area of insolvency law. In considering that proposal, the Commission expressed recognition of the importance to all countries of strong insolvency regimes and of the fact that the type of insolvency regime that a country adopted had become a "front-line" factor in international credit ratings. Concern was expressed, however, about the difficulties associated with work on an international level on insolvency legislation, which involved sensitive and potentially diverging socio-political choices. Although it was generally agreed that the Commission could not take a final decision on committing itself to establishing a working group to develop model legislation or another text without further study of the work already being undertaken by other organizations and consideration of the relevant issues, the prevailing view was that an exploratory session of a working group should be convened to prepare a feasibility proposal for consideration by the Commission at its thirty-third session.

At its twenty-second session, the Working Group on Insolvency Law considered the feasibility of the Commission undertaking further work on insolvency law on the basis of a note prepared by the Secretariat (A/CN.9/WG.V/WP.50). After deliberation, the Working

Group adopted a recommendation that the Commission undertake further work on that topic.

The Commission will have before it the report of the Working Group on the work of that session (A/CN.9/469).

Item 8. Settlement of commercial disutes

At its thirty-second session in 1999, the Commission considered a document entitled "Possible future work in the area of international commercial arbitration" (A/CN.9/460) and decided to put several topics relating to the settlement of commercial disputes on its agenda (those topics are discussed in document A/54/17, paras. 340-379 and 339). The Commission entrusted the work to its Working Group on Arbitration, which met at Vienna from 20 to 31 March 2000 (its thirty-second session). In accordance with the decision of the Commission, the Working Group considered issues relating to conciliation, requirement of written form for the arbitration agreement and enforceability of interim measures of protection (on the basis of document A/CN.9/WG.II/WP.108 and Add.1); the Working Group also considered the way in which it would implement the mandate given to it. The Commission will have before it document A/CN.9/468, reflecting the considerations and decisions taken at the session of the Working Group on Arbitration.

Item 9. Monitoring implementation of the 1958 New York Convention

The Commission, at its twenty-eighth session in 1995, approved the project, undertaken jointly with Committee D of the International Bar Association, aimed at monitoring the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (reports: A/50/17, paras. 401-404; A/51/17, paras. 238-243; A/52/17, paras. 257-259 and A/53/17, paras. 232-235). Stressing that the purpose of the project was not to monitor individual court decisions applying the Convention, the Commission called upon the States Parties to the Convention to send to the Secretariat the laws dealing with the recognition and enforcement of foreign arbitral awards. As of 4 April 2000, the Secretariat has received 59 replies to a questionnaire that had been sent to the States parties to the Convention relating to its legislation implementation. The Secretariat intends to present orally a progress report to the Commission.

Item 10. Case Law on UNCITRAL texts (CLOUT)

Based on a decision by the Commission at its twenty-first session (A/43/17, paras. 98-109), in 1988, the Secretariat established a system for collecting and disseminating information on court decisions and arbitral awards relating to normative texts emanating from the work of the Commission. The system relies on National Correspondents designated by the States having become parties to an UNCITRAL Convention or having enacted legislation based on an UNCITRAL Model Law. Sixty seven such States have designated National Correspondents. The features of that system are explained in the User Guide (A/CN.9/SER.C/GUIDE/1/Rev.1). Abstracts of court decisions relating to the United Nations Sales Convention, the Hamburg Rules and the UNCITRAL Model Arbitration Law are contained in documents A/CN.9/SER.C/ABSTRACTS/1 to 28. A thesaurus of the Sales Convention and an index of cases applying the Sales Convention are contained in documents A/CN.9/SER.C/INDEX/1 and A/CN.9/SER.C/INDEX/2/Rev.2, respectively.

Item 11. Transport law: progress report on the gathering of information

The Commission, at its twenty-ninth session in 1996, considered a proposal to include in its work programme a review of current practices and laws in the area of the international carriage of goods, with a view to establishing the need for uniform rules where no such rules existed and with a view to achieving greater uniformity of laws than had so far been achieved. At that session, it was decided that the Secretariat should be the focal point for a broadly-based gathering of information, ideas and opinions as to the problems that arose in practice and possible solutions to those problems. At its thirty-first and thirty-second sessions in 1998 and 1999, the Commission heard and discussed progress reports on the requested exploratory work, which was carried out in cooperation with the *Comité Maritime International* (CMI) (A/53/17, paras. 260-267 and A/54/17, paras. 410-418). The Commission expressed its appreciation to the CMI for having acted upon its request for cooperation and was looking forward to receiving a report presenting the results of the study with proposals for future work (A/54/17, para. 418). At the current session the Commission will have before it document A/CN.9/476, which describes the exploratory work undertaken so far and makes suggestions as to how the work might continue.

Item 12. Endorsement of texts of other organizations

The Commission will have before it three notes requesting the Commission's endorsement of (a) the International Standby Practices (ISP98), (b) the Uniform Rules for Contract Bonds (URCB) and (c) the Incoterms 2000 (A/CN.9/477, 478 and 479).

Item 13. Training and technical assistance

The Commission will have before it a note by the Secretariat on this subject (A/CN.9/473).

Item 14. Status and promotion of UNCITRAL legal texts

The Commission will have before it a note by the Secretariat (A/CN.9/474) concerning the present status of the Convention on the Limitation Period in the International Sale of Goods (New York, 1974); United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg); United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); Convention on the Limitation Period in the International Sale of Goods, concluded at New York on 14 June 1974, as amended by the Protocol of 11 April 1980; United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988); United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991); United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 1995); Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958); UNCITRAL Model Law on International Commercial Arbitration; UNCITRAL Model Law on International Credit Transfers; UNCITRAL Model Law on Procurement of Goods, Construction and Services; UNCITRAL Model Law on Electronic Commerce and UNCITRAL Model Law on Cross-Border Insolvency.

Item 15. General Assembly resolutions on the work of the Commission

The Commission may wish to take note of General Assembly resolution 53/103 of 26 January 1999 on the report of the United Nations Commission on International Trade Law

on the work of its thirty-second session. Copies of the resolution and the report of the Sixth Committee (A/53/632) will be made available at the session.

Item 16. Co-ordination and co-operation

(a) Security interests: special report on current activities and possible future work

At its thirteenth session, in 1980, the Commission had before it a report of the Secretary-General on security interests (A/CN.9/186). At that session, the Commission had decided that no further work should be carried out by the Secretariat at that time (A/35/17, para. 28). At the UNCITRAL Congress, "Uniform Commercial Law in the 21st Century", which was held in New York in conjunction with the twenty-fifth session from 17 to 21 May 1992, the suggestion was made that the Commission resume its work on security interests in general (Proceedings of the Congress, United Nations, 1995, 159).

The Commission will have before it a brief note by the Secretariat describing developments in the field of secured transactions law in the last twenty years, identifying problems left unaddressed and presenting possible solutions (A/CN.9/475). The Commission may wish to discuss the note with a view to deciding whether it wishes to resume its earlier work on security interests.

b) General reports

Representatives of other international organizations will be given an opportunity to apprise the Commission of their current activities and possible means of strengthening co-operation. For example, an observer of the *Comité Maritime International* (CMI) is expected to inform the Commission about the progress of work in the CMI regarding the collection of information and suggestions on current issues and problems in the field of international transport law (see also agenda item 11).

Item 17. Other business

(a) The Commission will have before it a bibliography of recent writings related to the work of the Commission (A/CN.9/481).

(b) The Secretariat will present an oral report on the Seventh Annual Willem C. Vis International Commercial Arbitration Moot competition.

Item 18. Date and place of future meetings

(a) Thirty-fourth session

The thirty-fourth session will be held at Vienna. Arrangements have been made for the session to be held from 7 to 25 May 2001.

(b) Sessions of the Working Groups

(i) Working Group on Electronic Commerce

The thirty-seventh session of the Working Group on Electronic Commerce could be held at Vienna from 19 to 29 September and the thirty-eighth session could be arranged to be held in New York during the first quarter of 2001.

(ii) Working Group on Arbitration

The thirty-third session of the Working Group on Arbitration could be held at Vienna from 20 November to 1 December 2000 and the thirty-fourth could be arranged to be held in New York during the first or second quarter of 2001.

(iii) Working Group on Insolvency Law

The twenty-third session of the Working Group on Insolvency Law could be held at Vienna from 11 to 22 December 2000, and the twenty-fourth session can be arranged to be held in New York during the second quarter of 2001.

Item 19. Adoption of the report of the Commission

The General Assembly, in paragraph 10 of resolution 2205 (XXI), decided that the Commission should submit an annual report to the General Assembly, and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Under a decision of the Sixth Committee (A/7408, para. 3), the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer of the Bureau designated by the Chairman.

III. SCHEDULING OF MEETINGS

There will be 17 working days available for consideration of the agenda items at the session. Tuesday, 4 July, is an official United Nations holiday (and will be used by the Secretariat to prepare the final portions of the draft report, to be adopted on Wednesday, 5 July). On Thursday, 6 July, and Friday, 7 July, two special events are planned to be held in the General Assembly Hall or the Trusteeship Council Chamber: (a) a Transport Law Colloquium, jointly organized with the Comité Maritime International (CMI), on possible ways of enhancing uniformity in the field of transport law (6 July) and (b) an UNCITRAL/Business Forum, jointly organized with the Commercial Law Association (CLA), to inform corporate counsel and other business representatives about UNCITRAL's activities and achievements and to obtain their input as to possible future work based on practice needs (7 July, with some executive briefings already on 6 July).

In view of the above, no meeting of National Correspondents for the case collection system referred to under agenda item 10 (CLOUT) will be held this year.

The Secretariat would recommend that the agenda items be taken up in numerical order and that eleven days (i.e. Monday, 12 June, to Monday, 26 June) be devoted to agenda item 4 (after items 1 to 3). Tuesday, 27 June, and Wednesday, 28 June, and, if necessary, Thursday, 29 June, may be devoted to agenda item 5, while agenda item 6 may be scheduled for Friday, 30 June, and agenda item 7 for , Monday, 3 July. Agenda items 8 to 18 might be taken up during any remaining conference time on 29 or 30 June, otherwise on 3 July. It should be noted that the above recommendations as to the scheduling of agenda items are intended to assist States and interested organizations in planning the attendance of their pertinent representatives but that the final actual scheduling will be determined by the Commission itself.

Meeting hours will be from 10.00 to 13.00 and from 15.00 to 18.00 hours, except on Monday, 12 June, when the meeting will commence at 10.30.